



Legislative Bulletin.....December 16, 2011

Contents:

Senate Amendment to H.R. 1892 - Intelligence Authorization Act for Fiscal Year 2011

Senate Amendments to H.R. 1892 - Intelligence Authorization Act for Fiscal Year 2012 (Rogers, R-MI)

Order of Business: The legislation is scheduled to be considered on Friday, December 16, 2011, under a motion to suspend the rules and pass the legislation.

Summary: **NOTE** - H.R. 1892 is divided into a classified and an unclassified portion. This legislative bulletin analyzes the unclassified portion of H.R. 1892 that is available on LIS.

The classified Schedule of Authorizations and the classified Annex accompanying the bill are be available for review by Members at the Permanent Select Committee on Intelligence. Members should keep in mind the requirements of Clause 13 of Rule XXIII, which only permits access to classified information by those Members of the House who have signed the oath provided for in the rule.

Title I: Authorization of Appropriations

Section 101. This section authorizes appropriations for the following departments for intelligence purposes for FY 2012:

1. The Office of the Director of National Intelligence;
2. The Central Intelligence Agency;
3. The Department of Defense;
4. The Defense Intelligence Agency;
5. The National Security Agency;
6. The Department of the Army, Department of the Navy, and the Department of the Air Force;
7. The Coast Guard;
8. The Department of State;
9. The Department of the Treasury;
10. The Department of Energy;
11. The Department of Justice;
12. The Federal Bureau of Investigation;
13. The Drug Enforcement Administration;
14. The National Reconnaissance Office;

15. The National Geospatial-Intelligence Agency; and
16. The Department of Homeland Security.

Intelligence Community Management Account: Section 104 authorizes \$576,393,000 for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2012. **The House-passed version had authorized \$590,339,000.**

This includes some amounts for classified sections dealing with advanced research and development. These authorizations will remain available until September 30, 2013. This section also authorizes 777 full-time personnel under the Director of National Intelligence.

Title II. Central Intelligence Agency Retirement and Disability System

Section 201. Authorization of Appropriations: This section authorizes \$514,000,000 for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2012.

Title III. General Provisions

Section 301. Increase in Employee Compensation and Benefits Authorized by Law: This section allows for salary, pay, retirement and other benefits to be increased as necessary as authorized by law.

Section 302. Restriction on Conduct of Intelligence Activities: This section clarifies that the legislation only authorizes such conduct that is authorized by the Constitution or the laws of the United State.

Section 303. Annual Report on Hiring on National Security Education Program Participants:

In addition to existing reporting requirements, within 90 days after the end of each fiscal year, the head of each agency in the intelligence community will be required to submit, to Congress, a report detailing the number of personnel during that year that were at any time a recipient of a grant or scholarship under the David L. Boren National Security Education Act of 1991.

***New Section:* Section 305. Preparation of Nuclear Proliferation Assessment Statements:** This section directs the intelligence community and the Secretary of State to provide to the President and Congress an addendum to each Nuclear Proliferation Assessment Statement, containing a comprehensive analysis of the country's export control system with respect to nuclear-related matters, including interactions with other countries of proliferation concern and the actual or suspected nuclear, dual-use, or missile-related transfers to such countries.

***New Section:* Section 307. Updates of Intelligence Relating to Terrorist Recidivism of Detainees Held at United States Naval Station, Guantanamo Bay, Cuba:** The legislation directs the Director of National Intelligence to make a public, unclassified summary of:

- “Intelligence relating to recidivism of detainees currently or formerly held at the Naval Detention Facility at Guantanamo Bay, Cuba, by the Department of Defense; and
- “An assessment of the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations.”

***New Section:* Section 308. Notification of Transfer of a Detainee Held at U.S. Naval Station, Guantanamo Bay:** This section requires the President to transmit a classified report to Congress, at least 30 days prior to the transfer or release of an detainee at Guantanamo Bay, detailing:

- “The name of the individual to be transferred or released;
- “The country or the freely associated State to which such individual is to be transferred or released;
- “The terms of any agreement with the country or the freely associated State for the acceptance of such individual, including the amount of any financial assistance related to such agreement; and
- “The agencies or departments of the United States responsible for ensuring that the agreement described in paragraph (3) is carried out.”

Title IV. Matters Relating to Elements of the Intelligence Community

Section 310. Burial Allowance: This section allows the Director of the Central Intelligence Agency (CIA) to pay the burial expenses of CIA employees who die outside of the United States whose death:

- “Resulted from hostile or terrorist activities; or
- “Occurred in connection with an intelligence activity having a substantial element of risk.”

This burial allowance is allowed to include recovery, mortuary, funeral or memorial service, cremation, burial costs, and transportation costs of the deceased. This allowance may not exceed \$15,000 and this is in addition to any other benefits that may be due under current law. The CIA director may increase the burial allowance to reflect increases in the Consumer Price Index.

Section 401. Report and Strategic Plan on Drug Trafficking Organization and Impact on Public Lands: Within one year after enactment, the Director of National Intelligence shall submit a report, to Congress, on:

- “An assessment of the intelligence community collection efforts dedicated to covered entities, including any collection gaps or inefficiencies; and
- “An assessment of the ability of the intelligence community to assist Federal land management agencies in identifying and protecting public lands from illegal drug grows and other activities and threats of covered entities, including through the sharing of intelligence information.”

Section 414. Creating an Official Record of the Osama Bin Laden Operation: This section expresses that it is the sense of Congress that:

- “The raid that killed Osama bin Laden demonstrated the best of the intelligence communities capabilities and teamwork;
- “For years to come, Americans will look back at this event as a defining point in the history of the United States;
- “It is vitally important that the United States memorialize all the events that led to the raid so that future generations will have an official record of the events that transpired before, during, and as a result of the operation; and
- “Preserving this history now will allow the United States to have an accurate account of the events while those that participated in the events are still serving in the Government.”

Within one year after enactment, the Director of the CIA is required to submit a classified report, to Congress, that memorializes such operation including a description of the events leading up to the discovery of the location of Osama bin Laden, the planning and execution of the raid, and the results of the intelligence gained from the raid.

Section 434. Report on Training Standards of Defense Intelligence Workforce: Within 180 days after the date of enactment, the Director of National Intelligence and the Under Secretary of Defense for Intelligence shall submit, to Congress, a report on the training standards of the defense intelligence workforce. The report will include:

- “A description of existing training, education, and professional development standards applied to personnel of defense intelligence components; and
- “An assessment of the ability to implement a certification program for personnel of the defense intelligence components based on achievement of required training, education, and professional development standards.”

Title V. Other Matters

Section 501. Report on Airspace Restrictions for Use of Unmanned Aerial Vehicles Along the border of the United States and Mexico: Within 90 days after the date of enactment, the Secretary of Homeland Security shall submit, to Congress, a report on whether restrictions on the use of airspace are hampering the use of unmanned aerial vehicles by the Department of Homeland Security along the border between the United States and Mexico.

***New Section:* Section 502: Sense of Congress Regarding Integration of Fusion Centers:** “It is the sense of Congress that ten years after the terrorist attacks upon the United States on September 11, 2001, the Secretary of Homeland Security, in consultation with the Director of National Intelligence, should continue to integrate and utilize fusion centers to enlist all of the intelligence, law enforcement, and homeland security capabilities of the United States in a manner that is consistent with the Constitution to prevent acts of terrorism against the United States.”

***New Section:* Section 503: Strategy to Counter Improved Explosive Devices:** This section directs the Secretary of Defense and the Director of National Intelligence to establish a strategy to identify and counter network activity and operations in Pakistan and Afghanistan relating to the development and use of improvised explosive devices.

***New Section:* Section 504: Sense of Congress Regarding the Priority of Railway Transportation Security:**

It is the sense of Congress that:

- “The nation's railway transportation (including subway transit) network is broad and technically complex, requiring robust communication between private sector stakeholders and the intelligence community to identify, monitor, and respond to threats;
- “The Department of Homeland Security Office of Intelligence and Analysis maintains a constructive relationship with other Federal agencies, state and local governments, and private entities to safeguard our railways; and
- “Railway transportation security (including subway transit security) should continue to be prioritized in the critical infrastructure threat assessment developed by the Office of

Intelligence and Analysis and included in threat assessment budgets of the intelligence community.”

Additional Information: On May 13, 2011, the House passed H.R. 754 (now P.L. 112-18) on May 13, 2011, by a [roll call vote of 392-15](#). This legislation authorized appropriations for the remainder of FY 2011, and was the first complete intelligence authorization bill since 2004.

Committee Action: H.R. 1892 was introduced on May 13, 2011, and referred to the House Permanent Select Committee on Intelligence. A markup was held on May 26, 2011 and the legislation was favorably reported, as amended. This legislation passed the House on September 9, 2011, by a [roll call vote of 384-14](#). The legislation passed the Senate, as amended, on December 14, 2011, by unanimous consent.

The RSC Legislative Bulletin for the House passed version can be [viewed here](#).

Administration Position: No Statement of Administration Policy (SAP) is provided.

Cost to Taxpayers: Since CBO does not provide estimates for classified programs, this estimate addresses only the unclassified portions of the bill. In addition, CBO cannot provide estimates for certain provisions in the unclassified portion of the bill because they concern classified intelligence programs.

On that limited basis, and assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 1892 would cost \$585 million over the 2012-2016 period CBO’s report is [linked here](#). This CBO report does not reflect Senate amendments.

Does the Bill Expand the Size and Scope of the Federal Government?: CBO estimates that implementing H.R. 1892 would cost \$585 million over the 2012-2016 period.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: [House Report 112-197](#) states that the bill as reported contains no private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: [House Report 112-197](#) states that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Rogers’ statement of constitutional authority for H.R. 1892 states that Congress has the power to enact this legislation pursuant to the following:

“The intelligence and intelligence-related activities of the United States government are carried out to support the national security interests of the United States, to support and assist the armed forces of the United States, and to support the President in the execution of the foreign policy of the United States.

Article I, section 8 of the Constitution of the United States provides, in pertinent part, that “Congress shall have power . . . to pay the debts and provide for the common defense and general welfare of the United States”; “. . . to raise and support armies . . .”; “To provide and maintain a Navy”; “To make Rules for the Government and Regulation of the land and naval Forces”; and “To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested in this Constitution in the Government of the United States, or in any Department or Officer thereof.”

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